



8011-01

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 232, 239, 249, 270, and 274

[Release Nos. 33-10442; 34-82241; IC-32936; File No. S7-08-15]

RIN 3235-AL42

Investment Company Reporting Modernization

AGENCY: Securities and Exchange Commission.

ACTION: Temporary final rule.

SUMMARY: The Securities and Exchange Commission (the “Commission”) is adopting a temporary final rule that requires funds in larger fund groups to maintain in their records the information that is required to be included in Form N-PORT, in lieu of filing reports with the Commission, until April 2019. As a result, larger funds groups will be required to begin submitting reports on Form N-PORT on the Electronic Data Gathering, Analysis, and Retrieval (“EDGAR”) system by April 30, 2019, and smaller fund groups will be required to begin submitting reports on Form N-PORT by April 30, 2020. The information that funds in larger fund groups maintain in their records will be subject to examination by the Commission. In addition, the Commission is delaying the rescission of current Form N-Q and delaying the effectiveness of certain amendments to other rules and forms.

DATES: Effective [insert date 30 days after date of publication in the *Federal Register*] until March 31, 2026. The effective date for the amendments to 17 CFR 232.401, 249.332, 270.8b-33, 270.30a-2, 270.30a-3, 270.30b1-5, and 17 274.130 and in Instructions 54, 57, 59, and 61 in the final rule published at 81 FR 81870 on November 18, 2016, is delayed until May 1, 2020. The applicable compliance dates are discussed below.

FOR FURTHER INFORMATION CONTACT: J. Matthew DeLesDernier, Senior Counsel, Jacob D. Krawitz, Branch Chief, or Brian McLaughlin Johnson, Assistant Director, at (202) 551-6792, Investment Company Rulemaking Office, Division of Investment Management, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting new temporary rule 30b1-9(T) [17 CFR 270.30b1-9(T)] under the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq.*] (“Investment Company Act”). The Commission is also delaying the compliance dates associated with the requirement for smaller fund complexes to file reports on new Form N-PORT [referenced in 17 CFR 274.150] under the Investment Company Act [15 U.S.C. 80a-1 *et seq.*] and new rule 30b1-9 [17 CFR 270.30b1-9] under the Investment Company Act. In addition, the Commission is delaying the effective date associated with: the rescission of rule 30b1-5 [17 CFR 270.30b1-5] under the Investment Company Act; amendments to rules 8b-33 [17 CFR 270.8b-33], 30a-2 [17 CFR 270.30a-2], 30a-3 [17 CFR 270.30a-3], and 30d-1 [17 CFR 270.30d-1] under the Investment Company Act; amendments to Forms N-1A [referenced in 17 CFR 274.11A], N-2 [referenced in 274.11a-1], and N-3 [referenced in 274.11b] under the Investment Company Act and the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] (“Securities Act”); the rescission of Form N-Q [referenced in 17 CFR 274.130] under the Investment Company Act and Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*] (“Exchange Act”); and amendments to rule 401 [17 CFR 232.401] of Regulation S-T [17 CFR 232].

I. DISCUSSION

In recognition of the importance of sound data security practices and protocols for sensitive, nonpublic information, the Commission is modifying its approach to the requirement to submit reports on Form N-PORT on the EDGAR system. Funds in larger fund groups would have been required to submit reports on Form N-PORT in EDGAR no later than July 30, 2018.

The Commission is adopting a temporary final rule that requires funds in larger fund groups to maintain in their records the information that is required to be included in Form N-PORT beginning no later than July 30, 2018. This information will be subject to examination by Commission staff. As a result, funds in larger fund groups must begin to submit reports on Form N-PORT on EDGAR by April 30, 2019, and smaller fund groups must begin to submit reports on Form N-PORT by April 30, 2020. In addition, the Commission is delaying the rescission of current Form N-Q and delaying the effectiveness of certain amendments to other rules and forms.

A. Form N-PORT

On October 13, 2016, the Commission adopted new rules and forms as well as amendments to its rules and forms to modernize the reporting and disclosure of information by registered investment companies.¹ In particular, the Commission adopted new Form N-PORT, which requires certain registered investment companies to report information about their monthly portfolio holdings to the Commission in a structured data format. We also adopted new Form N-CEN, which requires registered investment companies, other than face-amount certificate companies, to annually report certain census-type information to the Commission in a structured data format. In addition, we rescinded current Forms N-Q (effective August 1, 2019) and N-SAR and amended certain other rules and forms.²

¹ Investment Company Reporting Modernization, Investment Company Act Release No. 32314 (Oct. 13, 2016) [81 FR 81870 (Nov. 18, 2016)] (“Adopting Release”).

² The Commission also adopted amendments to Regulation S-X, which require standardized, enhanced disclosure about derivatives in investment company financial statements, as well as other amendments. Finally, it adopted amendments to Forms N-1A, N-3, and N-CSR to require certain disclosures regarding securities lending activities. *Id.*

As the Commission stated in the Adopting Release, Form N-PORT, as well as new rules, other forms, and amendments to existing rules and forms will, among other things, improve the information that the Commission receives from investment companies and assist the Commission, in its role as primary regulator of investment companies, to better fulfill its mission of protecting investors; maintaining fair, orderly, and efficient markets; and facilitating capital formation. Investors and other potential users can also utilize this information to help them make more informed investment decisions.

Form N-PORT is a new portfolio holdings reporting form that will be filed by all registered management investment companies, other than money market funds and small business investment companies, and by unit investment trusts that operate as exchange-traded funds (collectively, “funds”).³ Form N-PORT requires reporting of a fund’s complete portfolio holdings and additional information that will facilitate risk analysis and other Commission oversight. Reports on Form N-PORT are required to be filed in an extensible markup language (“XML”) structured data format no later than 30 days after the close of each month using the Commission’s EDGAR system.⁴ In general, reports on Form N-PORT for every third month of each fiscal quarter will be available to the public 60 days after the end of the fiscal quarter.⁵

Certain information reported on Form N-PORT will be kept nonpublic. As we noted in the Adopting Release, we recognize that more frequent portfolio disclosure than was currently required could potentially harm fund shareholders by expanding the opportunities for

³ Form N-PORT.

⁴ See rule 30b1-9.

⁵ General Instruction F to Form N-PORT.

professional traders to engage in predatory trading practices.⁶ In addition, some of the information required by Form N-PORT could imply a false sense of precision because such data, by design, are an aggregation of multiple assumptions and projections.⁷ In light of these considerations, the Commission in the Adopting Release determined not to make public the information reported on Form N-PORT for the first and second months of each fund’s fiscal quarter that is identifiable to any particular fund or adviser; any information reported with regards to country of risk and economic exposure, delta, or miscellaneous securities; or explanatory notes related to any of those topics that is identifiable to any particular fund or adviser.⁸ In addition, the information on Form N-PORT that will be made public will only be made public after an additional 30-day delay (*i.e.*, 60 days after quarter-end). Moreover, we determined to make all reports for the first six months following June 1, 2018 nonpublic in order to allow funds and the Commission a period of time to fine-tune the technical specifications and data validation processes for reports on Form N-PORT.⁹

When we adopted the Form N-PORT filing requirement, we provided for an effective date of January 17, 2017, with a tiered set of compliance dates based on a fund group’s asset size. Specifically, for larger entities—funds that together with other investment companies in the same “group of related investment companies” have net assets of \$1 billion or more as of the end of the most recent fiscal year of the fund (“larger fund groups”)—we adopted a compliance date of June 1, 2018.¹⁰ This would have resulted in larger fund groups filing their first reports on

⁶ See Adopting Release, *supra* note 1, Part II.A.4.

⁷ See *id.*

⁸ General Instruction F to Form N-PORT.

⁹ See Adopting Release, *supra* note 1, Part II.H.1.

¹⁰ *Id.*

Form N-PORT, reflecting data as of June 30, no later than July 30, 2018.¹¹ For smaller fund groups, we adopted a compliance date of June 1, 2019, anticipating that smaller fund groups would benefit from this extra time to comply and potentially would benefit from the lessons learned by the larger fund groups during the adoption period for Form N-PORT.¹²

B. Commission’s Determination to Delay Form N-PORT Filing Requirement

As we noted in the Adopting Release, we recognize the importance of sound data security practices and protocols for sensitive, nonpublic information, including information that may be competitively sensitive.¹³ To that end, the Adopting Release acknowledged that Commission staff was working to design controls and systems for the use and handling of Form N-PORT data in a manner that reflects the sensitivity of the data and is consistent with the maintenance of its confidentiality.¹⁴ In the Adopting Release, the Commission also stated that it “expect[ed] that the staff will have reviewed the controls and systems in place for the use and handling of nonpublic information reported on Form N-PORT.”¹⁵

In May 2017, the Commission’s Chairman initiated an assessment of the Commission’s internal cybersecurity risk profile and its approach to cybersecurity.¹⁶ The Chairman also directed the staff to take a number of steps designed to strengthen the Commission’s

¹¹ *Id.*

¹² *Id.*

¹³ See Adopting Release, *supra* note 1, Part II.A.3.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Statement on Cybersecurity (September 20, 2017), *available at* <https://www.sec.gov/news/public-statement/statement-clayton-2017-09-20>.

cybersecurity risk profile, with an initial focus on EDGAR.¹⁷ As the Chairman explained, the Commission receives, stores, and transmits substantial amounts of data, including sensitive and nonpublic data, in support of its mission.¹⁸ Much of that data is collected through EDGAR, which receives and processes over 1.7 million electronic filings per year.¹⁹ Thus, as part of the Commission's efforts to strengthen its cybersecurity risk profile going forward, the Commission has initiated a focused review and, as necessary or appropriate, uplift of the EDGAR system.²⁰ The Commission has added, and expects to continue to add, additional resources to these efforts, which are expected to include outside consultants, and will increase the focus on data security matters.²¹ As the Chairman has indicated, these efforts will require substantial time and effort to complete.²²

Certain of these measures, which will be designed to improve EDGAR's functionality and security, could negatively affect EDGAR's ability to validate and accept Form N-PORT filings in a timely manner, in particular during peak filing periods. Efforts to address any such potential effects on performance are underway, but we have determined to delay by nine months the requirement that funds file reports on Form N-PORT through the EDGAR system in order to provide time to complete this review and to implement and test any resulting modifications to the

¹⁷ Update on Review of 2016 Cyber Intrusion Involving EDGAR System (Oct. 2, 2017), *available at* <https://www.sec.gov/news/press-release/2017-186>.

¹⁸ Statement on Cybersecurity (Sept. 20, 2017), *available at* <https://www.sec.gov/news/public-statement/statement-clayton-2017-09-20>.

¹⁹ *Id.*

²⁰ Update on Review of 2016 Cyber Intrusion Involving EDGAR System (Oct. 2, 2017), *available at* <https://www.sec.gov/news/press-release/2017-186>.

²¹ *Id.*

²² *Id.*

EDGAR system.²³ This delay of filing reports on Form N-PORT on EDGAR is necessary for Commission staff to complete and review any modifications to EDGAR that are necessary to process these filings effectively and securely, given their frequency, volume, and complexity, as well as the nonpublic nature of much of the data.

C. Temporary Rule 30b1-9(T)

To effectuate the nine-month delay, we have determined to adopt temporary rule 30b1-9(T), which will have the effect of delaying the EDGAR submission requirements associated with Form N-PORT for larger fund groups until April 2019. As a result, funds in larger fund groups that previously would have been required to submit their first reports on Form N-PORT on EDGAR for the period ending June 30, 2018 (no later than July 30, 2018) will now be required to submit their first reports on EDGAR by April 30, 2019.²⁴ During this period, funds in larger fund groups that are subject to the June 1, 2018 compliance date must satisfy their reporting obligation by maintaining in their records the information required to be included in Form N-PORT instead of submitting the information via EDGAR.²⁵ To provide for Commission access to this information for a reasonable period of time, consistent with current record retention requirements for registered investment companies, the temporary rule provides that the information maintained in the company's records shall be treated as a record under section 31 of

²³ The Commission has not considered any other changes to Form N-PORT, rules, other forms, and amendments besides those that are discussed in this release.

²⁴ See Rule 30b1-9(T)(a).

²⁵ *Id.* Furthermore, the EDGAR reporting requirements added to Form N-PORT by the Investment Company Liquidity Risk Management Programs Adopting Release ("Liquidity Adopting Release") will also be delayed by the temporary rule. See Investment Company Liquidity Risk Management Program, Investment Company Act Release No. 32315 (Oct. 13, 2016) [81 FR 82142 (Nov. 18, 2016)]. However, funds will only be required to comply with temporary rule 30b1-9(T) with respect to these liquidity-related additions to Form N-PORT based on the compliance date set forth in the Liquidity Adopting Release for these additions.

the Investment Company Act and rule 31a-1 hereunder and subject to the requirements of rule 31a-2.²⁶ Like all fund records under the Act, this information is subject to examination by Commission staff.²⁷ Temporary rule 30b1-9(T) does not change the June 1, 2018 compliance date adopted for Form N-PORT for larger fund groups—it instead requires a temporary method for larger fund groups to fulfill their Form N-PORT reporting obligations.²⁸

The Adopting Release delayed compliance for smaller fund groups by one year so that they could benefit from the lessons learned by the larger fund groups' earlier compliance date.²⁹ In order to maintain this benefit the compliance date for smaller fund groups will be delayed by nine months from the original compliance date (until March 1, 2020). Not providing smaller fund groups with a compliance date delay would deprive them of receiving the full benefit of the tiered filing requirement that we previously adopted. However, the temporary rule is not relevant to these smaller fund groups,³⁰ as the relevant provision of the temporary rule applies until April 1, 2019—before the new compliance date for smaller fund groups (March 1, 2020). As a result, smaller fund groups are not subject to a requirement to prepare and then retain as a record the information required on Form N-PORT; rather, they will, pursuant to the Adopting Release and

²⁶ See rule 31a-2(a)(2) (providing that funds must preserve certain records for a period not less than six years from the end of the fiscal year, the first two years in an easily accessible place); *see generally* rule 31a-2(f) (requirements for electronic records). Because rule 31a-2 provides for preservation for not less than six years from the end of the fiscal year, the temporary rule will no longer be effective March 31, 2026.

²⁷ 15 U.S.C. 80a-30(b)(1).

²⁸ See rule 30b1-9(T)(a). While neither this temporary rule nor rule 31a-2(f) require that the information maintained in the funds' records be stored in an XML format, we believe that doing so would facilitate the filing of Form N-PORT following the nine-month delay as we believe funds can use this delay to gain greater facility with the structured reporting format.

²⁹ See Adopting Release, *supra* note 1, at Part II.H.1.

³⁰ See rule 30b1-9(T)(a).

this release, need to prepare and file Form N-PORT beginning on or after the delayed March 1, 2020 compliance date.

D. Form N-Q Filing Requirement

In order for investors and other users to continue to receive at the least the same information that they currently receive regarding fund portfolio holdings, we are requiring funds to continue filing public reports on Form N-Q until they begin filing reports on Form N-PORT using EDGAR (*i.e.*, the March 31, 2019 reporting period for larger fund groups and March 31, 2020 for smaller fund groups). As the Commission concluded in the Adopting Release, Form N-PORT will render reports on Form N-Q unnecessarily duplicative. To that end, the Commission staff recently provided guidance that once a fund begins filing reports on Form N-PORT, it will no longer be required to file reports on Form N-Q.³¹ The Adopting Release rescinded Form N-Q, effective August 1, 2019. This effective date would have allowed funds sufficient time to satisfy Form N-Q's 60-day filing requirement with regard to their final filing on Form N-Q for the reporting period preceding their first filing on Form N-PORT.³² We also adopted certain changes to Form N-CSR to account for the rescission of Form N-Q.³³ Specifically, as we noted in the Adopting Release, when a fund ceases filing reports on Form N-Q, its certification on Form N-CSR must state that the certifying officer has disclosed any change in the registrant's internal

³¹ See Investment Company Reporting Modernization Frequently Asked Questions, *available at* https://www.sec.gov/investment/investment-company-reporting-modernization-faq#_ftnref5.

³² Adopting Release, *supra* note 1, at 81966.

³³ *Id.* at 81912–13. We also adopted certain technical and conforming amendments related to the rescission of Form N-Q and the adoption of Form N-PORT. *See id.* at 81965–66.

control over financial reporting that occurred during the most recent fiscal half-year, rather than the registrant's most recent fiscal quarter as currently required.³⁴

As a result of this delay of the compliance date for filing reports on Form N-PORT for smaller fund groups by nine months, smaller fund groups will now satisfy their final filing requirements for Form N-Q by May 1, 2020. We are therefore delaying the effective date for the rescission of Form N-Q until May 1, 2020.³⁵ Correspondingly, the compliance dates for the amendments to the certification requirements of Form N-CSR will be March 1, 2019, for larger fund groups, and March 1, 2020, for smaller fund groups.³⁶

E. Six-Month Nonpublic Reporting Period

In the Adopting Release, the Commission determined that having a six-month time period where larger fund groups are required to file reports on Form N-PORT with the Commission, but where those reports are not disclosed publicly, will allow funds and the Commission to make adjustments to fine-tune the technical specifications and data validation processes.³⁷ Because larger fund groups will now be required to submit the reports on EDGAR as of March 31, 2019, those reports for the periods ending March 31, 2019 through September

³⁴ See *supra* note 1, at Part II.B.2; see also Investment Company Reporting Modernization Frequently Asked Questions, available at https://www.sec.gov/investment/investment-company-reporting-modernization-faq#_ftnref5.

³⁵ Money market funds currently file reports on Form N-Q, but upon its rescission will not have to file reports on Form N-PORT (as money market funds currently file monthly reports on Form N-MFP). While the Commission is extending the effective date for the rescission of Form N-Q until May 1, 2020, money market funds that were relying on the Commission's original August 1, 2019 rescission date for Form N-Q do not have to file reports on Form N-Q after August 1, 2019 despite the new rescission date of May 1, 2020.

³⁶ We are also delaying the effective date for the corresponding amendments to references to the availability of portfolio holdings schedules in Form N-1A, N-2, and N-3 and the amendments to remove references to Form N-Q in rule 401 of Regulation S-T and rules 8b-33, 30a-2, 30a-3, and 30d-1 under the Investment Company Act, to May 1, 2020, the same day the rescission of Form N-Q will now be effective.

³⁷ See Adopting Release, *supra* note 1, Part II.H.1.

30, 2019 will be kept nonpublic to preserve the six-month period noted above.³⁸ As before, portfolio information attached as exhibits to Form N-PORT for the first and third quarters of a fund's fiscal year will still be made public during this period, to ensure that information about funds' portfolio holdings continues to be publicly available to investors and other users during the six-month period when reports on Form N-PORT will not be made publicly available.³⁹

F. Form N-CEN

We note that our action today does not affect requirements with respect to Form N-CEN.⁴⁰ Because those reports will be immediately made public upon filing and because their annual frequency of filing and their smaller size are expected to impose fewer demands on the EDGAR system, we have determined not to change the submission requirements with respect to that form at this time.

G. Procedural and Other Matters

The Administrative Procedure Act ("APA") generally requires an agency to publish notice of a rulemaking in the *Federal Register* and provide an opportunity for public comment.⁴¹ This requirement does not apply, however, if the agency "for good cause finds...that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."⁴² We have determined to immediately adopt this temporary rule delaying the requirement that funds

³⁸ As in the Adopting Release, here, smaller fund groups will not be required to file reports on Form N-PORT through the EDGAR system until after the six-month nonpublic period for larger fund groups has elapsed. This will allow smaller fund groups to benefit from any adjustments to fine-tune the technical specifications and data validation processes that occurred during the six-month nonpublic period for larger fund groups.

³⁹ See Adopting Release, *supra* note 1, Part II.H.1.

⁴⁰ Form N-CEN [referenced in 17 CFR 274.101] under the Investment Company Act. Accordingly, the rescission of Form N-SAR will not be delayed by this action.

⁴¹ See 5 U.S.C. § 553(b)–(c).

⁴² 5 U.S.C. § 553(b)(3)(B).

file reports on Form N-PORT through the EDGAR system for nine months and making the accompanying changes described above. The Commission has determined that the range of potential technological matters accompanying the ongoing and anticipated improvements to the EDGAR system warrant a delay in accepting this entirely new set of EDGAR filings, which involve complex structured data files, until after the EDGAR upgrades that are underway are tested. This judgment is based on the Commission's ongoing, internal assessment of the range of potential modifications to enhance the EDGAR system's functionality, performance, and security. Accordingly, we have concluded that soliciting public comment on this issue would be neither necessary, practicable, nor in the public interest.

In addition, providing immediate certainty to funds is critical because we understand that funds are currently organizing their systems and procedures to comply with the requirements and dates set forth in the Adopting Release. Funds need to know that there will be a nine-month delay of the requirement that they file reports on Form N-PORT through the EDGAR system, and that as a result they will have to maintain their systems for filing reports on Form N-Q longer than contemplated in the Adopting Release. The Commission is concerned, for example, that absent the certainty provided by a final rule funds may eliminate those systems as part of the transition to Form N-PORT. Providing notice and comment would defeat this goal of giving certainty as to funds' obligations in light of the necessary delays stemming from the Commission's recent cybersecurity initiatives. Under these circumstances, notice and comment would be both impracticable and contrary to the public interest.

For these reasons, the Commission finds that good cause exists to dispense with notice and comment regarding the delay of the requirement to submit reports on Form N-PORT on EDGAR and the associated changes outlined above.⁴³

II. ECONOMIC ANALYSIS

A. Introduction

The Commission is sensitive to the economic effects, including the benefits and costs and the effects on efficiency, competition, and capital formation that will result from this temporary final rule and from the nine-month delay of the requirement that funds submit reports on Form N-PORT through EDGAR, the associated delay for the same period of the rescission of Form N-Q, the delay of the semi-annual certification requirement in Form N-CSR, the delay of the effectiveness of certain amendments to other rules and forms, and the change in the six-month period during which filed reports on Form N-PORT with the Commission will be kept nonpublic.⁴⁴

The Commission relies on information included in reports filed by funds to monitor trends, identify risks, and inform its regulatory functions. Similarly, investors and other market participants rely on funds' public filings to assist in their investment decisions and understanding of financial markets. Form N-PORT, which requires reporting of a fund's complete portfolio

⁴³ See Section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) (an agency may dispense with prior notice and comment when it finds, for good cause, that notice and comment are “impracticable, unnecessary, or contrary to the public interest”). This finding also satisfies the requirements of 5 U.S.C. 808(2), allowing the amendments to become effective notwithstanding the requirement of 5 U.S.C. 801 (if a federal agency finds that notice and public comment are impractical, unnecessary or contrary to the public interest, a rule shall take effect at such time as the federal agency promulgating the rule determines). The amendments also do not require analysis under the Regulatory Flexibility Act. See 5 U.S.C. 604(a).

⁴⁴ See Parts I.C, I.D, and I.E for the specific framework of the nine-month delay in the submission of Form N-PORT on EDGAR.

holdings on a monthly basis with every third month available to the public, will contribute substantially to information made available to the Commission and the public by funds. As the Commission has previously stated,⁴⁵ the adoption of Form N-PORT will modernize fund reporting, improve the ability of the Commission to fulfill its regulatory functions, and allow investors to make more informed investment decisions.

The Commission has now determined to delay the requirement that funds submit Form N-PORT through the EDGAR system by nine months to provide time to complete the necessary adjustments to the technical specifications and data validation processes and to complete the necessary functionality, performance, and security enhancements. The Commission's implementation of this delay, while facilitating changes to the EDGAR system, will impose certain costs on market participants, including costs associated with delayed access to structured portfolio holdings data, costs associated with continuing to file Form N-Q, and recordkeeping costs associated with Form N-PORT for larger fund groups. The economic effects of the delay are discussed in more detail below.

B. Economic Baseline

The current required reporting of information by funds (*e.g.*, reports on Forms N-Q, N-CSR, and N-SAR), as well as the changes in reporting and disclosure brought by the adoption of Form N-PORT, serve as the baseline against which the costs and benefits as well as the impact on efficiency, competition, and capital formation are discussed.⁴⁶ Additionally, the baseline takes into account the fact that some funds likely have started updating their systems and processes to comply with the new Form N-PORT requirements adopted in October 2016.

⁴⁵ See Adopting Release, *supra* note 1, at 81870, 81872.

⁴⁶ See Adopting Release, *supra* note 1, at 81969.

The entities affected by the delay of the EDGAR submission requirement for reports on Form N-PORT are generally the funds that will report using Form N-PORT; those entities that currently report using Form N-Q and would have ceased doing so as of the applicable Form N-PORT compliance date; and those entities that will rely on either filed information, including the Commission and current and future users of investment company portfolio information including investors, third-party information providers, and other interested potential users.

As of the end of 2016, approximately 95.8 million individuals owned shares of registered investment companies, representing 55.9 million or 44.4% of U.S. households.⁴⁷ We estimate that, as of the end of 2016, there were 17,072 funds registered with the Commission, of which 11,548 are required to file Form N-PORT (i.e., 9,090 mutual funds (excluding money market funds), 1,716 ETFs (including eight ETFs organized as UITs and 1,708 ETFs that are management investment companies), and 742 closed-end funds (excluding SBICs)).⁴⁸ Of the fund groups required to file Form N-PORT, 68.9% of fund groups, representing 0.6% of all fund assets, have net assets below \$1 billion. We also estimate that there are 11,540 funds that currently report on Form N-Q and will be required to report on Form N-PORT,⁴⁹ all of which would have ceased reporting on Form N-Q as of the applicable Form N-PORT compliance date(s).⁵⁰

⁴⁷ 2017 Investment Company FactBook (“2017 IC FactBook”), A Review of Trends and Activities in the Investment Company Industry, 57th edition, at 2, *available at* https://www.ici.org/pdf/2017_factbook.pdf.

⁴⁸ Based on data obtained from the 2017 IC FactBook and registrants’ filings with the Commission on Form N-SAR as of the end of 2016.

⁴⁹ 11,540 is equal to 11,548 funds that are required to file Form N-PORT minus 8 ETFs organized as UITs that are required to file Form N-PORT but are not required to file form N-Q. Estimates are based on staff analysis of data obtained from Morningstar Direct, as of December 31, 2016.

⁵⁰ Based on data obtained from the 2017 IC FactBook and registrants’ filings with the Commission on Form N-SAR as of the end of 2016.

C. Economic Impacts

We are mindful of the costs and benefits of the delay in filings on Form N-PORT, the new recordkeeping requirement, and the associated delays in the effectiveness of certain amendments and rescissions. The Commission notes that, where possible, it has sought to quantify the benefits and costs, and effects on efficiency, competition, and capital formation expected to result from the delay in the date for submitting Form N-PORT on EDGAR, the related delay in the rescission of Form N-Q, and the other changes made in this release. However, the Commission is unable to quantify many of the economic effects because it lacks information necessary to provide reasonable estimates. Effects that we are unable to quantify include the extent to which investors would be able to use the information in Form N-PORT to make more informed investment decisions either through direct use or through third-party service providers.

1. Economic Impacts of Delay in Form N-PORT EDGAR Submission Requirement

The EDGAR submission requirement was designed to enhance the Commission's ability to access efficiently and timely monthly investment portfolio information of a large number of funds in a structured format, and to also enhance investors' ability to make more informed investment decisions. The delay in the requirement to submit Form N-PORT on EDGAR will benefit reporting funds as well as funds' current and prospective investors, because it will allow the Commission time to make progress in the EDGAR system review and to implement and test resulting modifications to the EDGAR system.⁵¹ This will allow the large amounts of new,

⁵¹ To the extent that the Commission's EDGAR review and modernization efforts during the nine-month delay improve current data security for nonpublic information posted on EDGAR, funds will also benefit from efforts to strengthen the Commission's cybersecurity risk profile going forward.

complex data to be submitted on EDGAR with additional security measures in place. This, in turn, will help ensure that the information contained in Form N-PORT, once submitted to EDGAR, is readily accessible and usable.

The Commission acknowledges, however, that there are costs to a delay in the receipt of Form N-PORT information. The delay in the EDGAR submission requirement could potentially temporarily affect the Commission's ability to readily incorporate Form N-PORT information into its mission through better informed policy decisions and oversight, more specific guidance and comments in the disclosure review process, and more targeted examination and enforcement efforts.⁵² This impact is likely mitigated, however, because during the nine-month delay in the EDGAR submission requirement, larger fund groups must still prepare and maintain in their records the information that is required to be included on Form N-PORT.⁵³ Further, both smaller fund groups and larger fund groups must also prepare and submit reports on Form N-Q. There is overlap between the information that funds will continue to report on Form N-Q and that required in Form N-PORT; however, funds file Form N-Q in a non-structured data format, file the form less frequently, and report fewer data points than on Form N-PORT.⁵⁴

⁵² To the extent that larger fund groups do not prepare and maintain their reports in XML format during the delay period, the nine-month delay in the EDGAR submission requirement could also temporarily negatively affect the Commission because fund reports will not be available in a structured XML format that allows the Commission staff to more efficiently review and analyze fund portfolio information. *See* Adopting Release, *supra* note 1, at 81876, 81906-7.

⁵³ *See supra* Part 0.

⁵⁴ As detailed in the Adopting Release, Form N-PORT requires additional information concerning fund portfolio holdings that is not currently required by Form N-Q. *See* Adopting Release, *supra* note 1, at 81875-76. For example, Form N-PORT requires reporting of additional information relating to derivative investments. The form also includes certain risk metric calculations that measure a fund's exposure and sensitivity to changing market conditions, such as changes in asset prices, interest rates, or credit spreads. Form N-PORT also requires information about certain fund transactions and activities such as securities lending, repurchase agreements, and reverse repurchase agreements,

The nine-month delay of the EDGAR submission requirement will also delay the ability of current and future users of investment company portfolio information, including investors, third-party information providers, and academics, to access additional publicly available data in a structured format. This delay in the Form N-PORT submission will defer the increase in the transparency of a fund's investment strategies and will also postpone the increase in the ability of investors and other potential users to more efficiently identify the funds' risk exposures, differentiate investment companies based on their investment strategies, and make more informed investment decisions. Any costs of such a temporary delay are partially mitigated by the fact that users of investment company portfolio information will continue to have access to relevant investment company information via the reports on Form N-Q and N-CSR for the duration of the Form N-PORT submission delay.

To the extent that the delay in the requirement to submit Form N-PORT on EDGAR for larger fund groups and the delay in the requirement to file Form N-PORT for smaller fund groups change costs borne by fund groups, these changes will come in the form of a reduction in the cost of submitting reports on Form N-PORT on EDGAR. For larger fund groups, there will be a cost saving associated with the nine-month delay in the requirement to prepare the funds' systems to accommodate the XML-based reports to the extent those fund groups choose another format to prepare and maintain the information that is required to be included in Form N-PORT

including information regarding the counterparties to which the fund is exposed in those transactions, as well as in over-the-counter derivatives transactions.

during the delay period.⁵⁵ For smaller fund groups, there will be a cost saving associated with the nine-month delay in both preparing and submitting reports on Form N-PORT on EDGAR.

Based on the cost estimates in the Adopting Release for compiling and submitting Form N-PORT on EDGAR, we believe that the cost savings for larger fund groups associated with the delay in submitting Form N-PORT on EDGAR and the delay in preparing the funds' systems to accommodate the XML Form N-PORT format requirement will be minimal. While filing with the Commission is delayed for nine months, temporary rule 30b1-9(T) will still require larger fund groups to compile the information that is required to be included in Form N-PORT during the nine months that the EDGAR submission requirement is delayed and these funds will incur the additional cost of maintaining the information required by Form N-PORT in the funds' records in an easily accessible place as required by the temporary final rule. We believe that the cost savings for smaller fund groups associated with the delay in preparing and submitting Form N-PORT on EDGAR for nine months will be likely higher compared to the cost savings for larger fund groups. These cost savings likely comprise a nine-month deferral of initial costs associated with preparing the necessary systems and processes for Form N-PORT filings and a reduction in ongoing costs associated with preparing, reviewing, and filing reports on Form N-PORT for nine months.⁵⁶ Finally, for both larger and smaller funds groups, the proposed delay

⁵⁵ This cost saving comprises a deferral of initial costs because larger fund groups must prepare their systems to accommodate the XML-based reports with a nine-month delay and a reduction in ongoing costs because larger fund groups have to accommodate the XML-based reports for nine months less. It is possible that certain funds have already started preparing their systems and processes to accommodate the Form N-PORT requirements adopted in October 2016. Any cost reductions and deferrals for those funds are likely lower.

⁵⁶ See Adopting Release *supra* note 1, footnotes 1300–1304 for details on the initial and ongoing costs associated with preparing, reviewing, and filing reports on Form N-PORT.

will temporarily defer costs associated with the public release of information that was previously held private.⁵⁷

2. Economic Impacts of Delay in Form N-Q Rescission

The nine-month delay in the Form N-PORT submission on EDGAR likely imposes additional costs to funds required to file reports on Form N-Q for an additional nine months. First, the requirement to submit Form N-Q for an additional nine months as well as prepare and maintain the information that is required to be included in a larger fund group's report on Form N-PORT will impose filing costs for Form N-Q and some duplicative preparation and recordkeeping costs on larger fund groups that will be required to prepare and maintain information that is included in both forms. Using estimates from the Adopting Release, we calculate that preparing and filing Form N-Q imposes annual total cost of \$78,518,160 for all funds, or \$6,804 per fund annually.⁵⁸ However, because substantially all of Form N-Q questions have been incorporated into Form N-PORT, we estimate that much of the estimated burden encompasses the cost of gathering and preparing relevant data as well as developing or maintaining the systems and records to generate the data that will be required by both forms. As

⁵⁷ Such costs include potential "front-running," "predatory trading," and "copycatting/reverse engineering of trading strategies" by other investors as well as the public release of previously private and sensitive information, such as the identities and weights of all of the individual components in custom baskets or indexes comprising the reference instruments underlying the fund's derivative investments, information regarding fees and financing terms for certain derivatives contracts, information regarding the variable financing rates for swaps that pay or receive financing payments, and the reporting of distressed debt issued by private companies. *See* Adopting Release, *supra* note 1, at 81977–80.

⁵⁸ The estimated annual cost per-fund is based upon the following calculations: $\$6,804 = 21 \text{ hours/fund} \times \$324/\text{hour}$ compensation for professionals commonly used in preparation of Form N-Q filings. ($\$324 = (\$308 \text{ per hour for senior programmers} + \$340 \text{ per hour for compliance attorneys}) \div 2$ (as half of the time will be performed by senior programmers and half by compliance attorneys)), as we believe these employees would commonly be responsible for completing reports on Form N-Q. The estimated annual total cost is based on the following calculation: $\$78,518,160 = \$6,804 \text{ annual per fund cost} \times 11,540 \text{ funds}$. Funds are currently required to file a quarterly report on Form N-Q after the close of the first and third quarters of each fiscal year. *See* Adopting Release, *supra* note 1, at 81998.

a result, the additional costs of preparing and filing Form N-Q during the nine-month delay will likely be administrative in nature, and small in relation to the costs that funds already bear for preparing and reviewing Form N-PORT.⁵⁹

Second, the delay in the Form N-PORT submission requirement will impose an additional cost on funds that must continue seeking certification of the Form N-Q for nine more months until Form N-Q is rescinded.⁶⁰ As mentioned above, once Form N-Q is rescinded, the certifying officer will be required to state that he or she has disclosed in Form N-CSR any change in the registrant's internal control over financial reporting that occurred during the most recent fiscal half-year rather than the most recent quarter to fill the gap in certification coverage that would otherwise occur once Form N-Q is rescinded. Nevertheless, we believe any additional certification costs arising from the delay in the Form N-Q rescission will be minimal.⁶¹

3. Analysis of Effects on Efficiency, Competition, and Capital Formation

Market participants rely on the ability of EDGAR to perform effectively in order to provide the Commission and investors with timely reporting. The Commission prioritizes a secure and fully functional EDGAR for receiving information about its registrants and providing that information to market participants. The delay in the Form N-PORT submission requirement

⁵⁹ See Adopting Release, *supra* note 1, at page 81975.

⁶⁰ On the other hand, the proposed delay in the Form N-Q rescission will also temporarily defer for some funds any costs associated with the rescission of Form N-Q, depending on a particular fund's fiscal year. In particular, the rescission of Form N-Q will eliminate certifications of the accuracy of the portfolio schedules reported for the first and third fiscal quarters and funds will only certify their disclosure controls and procedures and internal control over financial reporting in Form N-CSR semi-annually. To the extent that Form N-Q's certifications about the accuracy of portfolio holdings improve the accuracy of the data reported during the first and third quarters, reducing the frequency of certifications from quarterly to semiannually could affect the quality of the data reported. The delay in the rescission of Form N-Q could thus delay the potential cost of reduced data quality due to the reduction in the data certification frequency.

⁶¹ See Adopting Release, *supra* note 1, at 81975, 82005.

and the resulting delay in the Form N-Q rescission will provide the Commission with time to make progress in the EDGAR system review and to implement and test resulting modifications to the EDGAR system to allow EDGAR to accept new, large, and complex structured data disclosures made by funds effectively, with additional security measures in place, thereby facilitating the ready accessibility of the disclosures by investors and other market participants.

The Commission acknowledges, however, that the delay will temporarily prevent the Commission, investors, and other market participants from accessing the more comprehensive and structured portfolio information that would be made available by funds filing Form N-PORT. The enhanced disclosures in Form N-PORT would allow the Commission to better monitor industry trends and identify industry outliers, provide guidance and comments to improve disclosure, identify risks, inform policy and rulemaking, and assist the Commission in its oversight efforts. The enhanced disclosures in Form N-PORT would also allow investors and other market participants to more efficiently analyze investment portfolio information, better differentiate investment companies based on their investment strategies and other activities, select funds based on security selection, industry focus, level of diversification, and the use of leverage and derivatives. The enhanced disclosures therefore would ultimately allow investors to allocate capital across reporting funds more in line with their risk preferences and increase the competition among funds for investor capital. Hence, the delay in the Form N-PORT submission requirement might temporarily negatively impact investors; the fair, orderly, and efficient functioning of the markets; and capital formation. Importantly, however, this temporary negative impact is mitigated by delaying the rescission of Form N-Q until May 1, 2020 so that funds will continue to provide some fund portfolio holdings information on Form N-Q.

The delay may have an incremental competitive effect on larger fund groups, which remain subject to the requirement to prepare the information required by Form N-PORT and Form N-Q, but to retain the former and submit the latter, for an additional nine months, while smaller fund groups are not subject to the costs of preparing and retaining the information required by Form N-PORT. These effects are likely small, given the relative size of the larger fund groups to the smaller fund groups and will only last for nine months.

D. Alternatives

As an alternative to the nine-month delay of the EDGAR submission requirement for reports on Form N-PORT, we considered a longer or shorter delay period. While a shorter period would have reduced the costs to the Commission and other current and future users of investment company portfolio information of not receiving investment portfolio information in a more timely manner, the Commission believes that a shorter period would be inadequate for review and testing of the EDGAR system's ability to validate and accept Form N-PORT filings effectively. At this time, the Commission also believes that a longer period is not necessary and would increase the costs to the Commission and other users of investment company portfolio information.

As an alternative to the tiered EDGAR submission requirement on Form N-PORT for larger and smaller fund groups, we considered a nine-month delay in the Form N-PORT submission requirement only for larger fund groups. Such a delay would not allow smaller fund groups to benefit from the extra time to comply with the new requirements and potentially benefit from the lessons learned by larger fund groups. As discussed above, we are not revisiting the decision made in the Adopting Release to maximize the potential for smaller fund groups (and any external vendors that would be used by both larger and smaller fund groups) to benefit from lessons learned by larger fund groups, and therefore we are preserving a tiered requirement

for the Form N-PORT EDGAR submission process.⁶² Relatedly, similar to larger fund groups, we considered requiring smaller fund groups to prepare and maintain records of the information that is required to be included in Form N-PORT during the delay. However, delaying the filing requirement for smaller fund groups allows them to benefit from the lessons learned by larger fund groups in preparing and filing Form N-PORT on EDGAR as discussed in the Adopting Release.⁶³

As an alternative to the delay in the rescission of Form N-Q, we considered not delaying the rescission of Form N-Q while delaying the N-PORT EDGAR submission requirement by nine months. Such an alternative would decrease the information that is available to the Commission and various market participants, such as investors, about fund portfolio performance. Such a reduction in information availability could adversely impact investors, market efficiency, and capital formation.

We did not revisit the decision made in the Adopting Release to require that funds prepare the information that must be included on Form N-PORT by June 1, 2018 for larger fund groups. The sole purpose of the nine-month delay is to allow the Commission time to make progress in the EDGAR system review and to implement and test resulting modifications to the EDGAR system to allow EDGAR to accept new, large, and complex structured data disclosures made on Form N-PORT by funds effectively, with additional security measures in place.

III. PAPERWORK REDUCTION ACT

The Commission is delaying the requirement to submit reports on Form N-PORT on the EDGAR system by nine months for larger fund groups from July 30, 2018 to April 30, 2019 and

⁶² See *supra* Part 0.

⁶³ See Adopting Release, *supra* note 1, at 81966.

for smaller fund groups from July 30, 2019 to April 30, 2020. The Commission is also adopting rule 30b1-9(T) that requires funds in larger fund groups to maintain in their records the information required in Form N-PORT during that nine-month delay. In addition, the Commission is delaying the rescission of current Form N-Q and delaying the effectiveness of certain amendments to other rules and forms. We do not believe that any of these changes will make any substantive modifications to any existing collection of information requirements within the meaning of the Paperwork Reduction Act of 1995 (“PRA”).⁶⁴

A. Form N-PORT

Rule 30b1-9(T) will require larger fund groups, during the nine-month delay, to satisfy their reporting obligation by maintaining in their records the information required to be included in Form N-PORT instead of submitting the information via EDGAR. We believe that the burden associated with preserving the information required by Form N-PORT in the fund’s records in an easily accessible place is similar to the burden associated with submitting the prepared report on EDGAR. Moreover, we believe that some of the burden for smaller fund groups associated with filing Form N-PORT will be deferred for nine months, but because many of the burdens associated with preparing Form N-PORT will be incurred by funds before then, we believe that there will be no substantive modification to the existing collection of information for Form N-PORT. As a result, the Commission believes that the current PRA burden estimates for the existing collection of information requirements remain appropriate.⁶⁵

⁶⁴ 44 U.S.C. 3501 through 3521.

⁶⁵ “Form N-PORT Under the Investment Company Act, Monthly Portfolio Investments Report” (OMB Control No. 3235–0730).

B. Rescission of Form N-Q

As discussed in the Adopting Release, in connection with our adoption of Form N-PORT, we determined to rescind Form N-Q effective August 1, 2019 in order to eliminate unnecessarily duplicative reporting requirements once smaller funds began reporting on Form N-PORT.⁶⁶ The rescission of Form N-Q will affect all management investment companies required to file reports on the form. Because larger fund groups that are subject to rule 30b1-9(T) will be required to file public reports on Form N-Q at the time they prepare and preserve the information required by Form N-PORT, these requirements include certain requirements that are duplicative, though they will not involve duplicative public reporting requirements. Because we are delaying the effective date of the rescission of Form N-Q by nine months to May 1, 2020, the burden reduction we estimated will be realized nine months later than contemplated by the Adopting Release. As a result, the Commission believes that the current PRA burden estimates for the existing collection of information requirements remain appropriate.⁶⁷

C. Registration Statement Forms

We are delaying the effective date of technical and conforming changes to Forms N-1A, N-2, and N-3 referring to the availability of portfolio holdings schedules to May 1, 2020, the same day the rescission of Form N-Q will now be effective.

In the Adopting Release, we did not estimate a change to burden hours or the external costs related to the technical and conforming amendments related to the availability of portfolio holdings schedules. Therefore, we do not believe that there is a change to burden hours or the external costs resulting from the delay of the effective date of these amendments. Accordingly,

⁶⁶ Adopting Release, *supra* note 1, at 81998.

⁶⁷ “Form N-Q—Quarterly Schedule of Portfolio Holdings of Registered Management Investment Company” (OMB Control No. 3235–0578).

the Commission believes that the current PRA burden estimates for the existing collection of information requirements remain appropriate.⁶⁸

D. Amendments to Form N-CSR

As discussed in the Adopting Release, in connection with the rescission of Form N-Q, we also adopted amendments to Form N-CSR, the reporting form used by management companies to file certified shareholder reports under the Investment Company Act and the Exchange Act.⁶⁹

In the Adopting Release, we estimated that the amendments to the certification requirements of Form N-CSR would not change the annual hour burden or external costs associated with Form N-CSR.⁷⁰ Therefore, we do not believe that there is a change to burden hours or the external costs resulting from the delay of the effective date of these amendments. Accordingly, the Commission believes that the current PRA burden estimates for the existing collection of information requirements remain appropriate.⁷¹

IV. STATUTORY AUTHORITY

We are adopting the rules contained in this document under the authority set forth in the Securities Act [15 U.S.C. 77a *et seq.*], the Exchange Act, particularly sections 10, 13, 15, 23, and

⁶⁸ “Form N-1A under the Securities Act of 1933 and under the Investment Company Act of 1940, Registration Statement of Open-End Management Investment Companies” (OMB Control No. 3235–0307); “Form N-2 under the Investment Company Act of 1940 and Securities Act of 1933, Registration Statement of Closed-End Management Investment Companies” (OMB Control No. 3235–0026); and “Form N-3 Under the Investment Company Act of 1940, Registration Statement of Separate Accounts Organized as Management Investment Companies” (OMB Control No. 3235–0316).

⁶⁹ Adopting Release, *supra* note 1, at 82004. Compliance with the certification requirements will be mandatory, and responses are not kept confidential.

⁷⁰ *Id.* at 82005.

⁷¹ “Form N-CSR under the Securities Exchange Act of 1934 and under the Investment Company Act of 1940, Certified Shareholder Report of Registered Management Investment Companies” (OMB Control No. 3235–0570).

35A thereof [15 U.S.C. 78a *et seq.*], the Investment Company Act, particularly sections 8, 30, 31, and 38 thereof [15 U.S.C. 80a *et seq.*], and 44 U.S.C. 3506.

List of Subjects

17 CFR Part 232

Administrative practice and procedure, Reporting and recordkeeping requirements, Securities.

17 CFR Part 239

Reporting and recordkeeping requirements, Securities.

17 CFR Part 249

Reporting and recordkeeping requirements, Securities.

17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

For reasons set forth in the preamble, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 270 — RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. The authority citation for part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a-1 *et seq.*, 80a-34(d), 80a-37, 80a-39, and Pub. L. 111-203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

2. Section 270.30b1-9(T) is added to read as follows:

§270.30b1-9(T) Temporary rule regarding monthly report.

(a) Until April 1, 2019, each registered management investment company subject to §270.30b1-9 of this chapter must satisfy its reporting obligation under that section by

maintaining in its records the information that is required to be included in Form N-PORT (§274.150 of this chapter).

(b) The information maintained in the registered management investment company's records under paragraph (a) of this section shall be treated as a record under section 31(a)(1) of the Act [15 U.S.C. 80a-30(a)(1)] and § 270.31a-1(b) of this chapter subject to the requirements of § 270.31a-2(a)(2) of this chapter.

(c) This section will expire and no longer be effective on March 31, 2026.

By the Commission.

Dated: December 8, 2017

Brent J. Fields
Secretary

[FR Doc. 2017-26922 Filed: 12/13/2017 8:45 am; Publication Date: 12/14/2017]